

# **EXHIBIT 4**

KEITH BROWN  
July 03, 2023

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JUSTIN GUY, individually and  
on behalf of those similarly  
situated,

Plaintiff,

vs.

Case No. 20-cv-12734-MAG-EAS

Hon. Mark A. Goldsmith

ABSOPURE WATER COMPANY, LLC,  
a domestic limited liability  
company,

Defendant.

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The Remote Deposition of KEITH BROWN,  
Commencing at 10:04 a.m.,  
Monday, July 3, 2023,  
Before Helen F. Benhart, CSR-2614,  
Appearing remotely from Wayne County, Michigan.

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<p>1 REMOTE APPEARANCES:</p> <p>2</p> <p>3 ANDREW R. FRISCH</p> <p>4 Morgan &amp; Morgan, P.A.</p> <p>5 8151 Peters Road</p> <p>6 Suite 4000</p> <p>7 Plantation, Florida 33324</p> <p>8 (954) 967-5377</p> <p>9 afrischsforthepeople.com</p> <p>10 Appearing on behalf of the Plaintiff.</p> <p>11</p> <p>12 MICHAEL O. CUMMINGS</p> <p>13 Cummings, McClorey, Davis &amp; Acho, P.L.C.</p> <p>14 1185 Avenue of the Americas</p> <p>15 Third Floor</p> <p>16 New York, New York 10036</p> <p>17 (212) 547-8810</p> <p>18 mcummings@cmda-law.com</p> <p>19 Appearing on behalf of the Defendant.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 2</p>	<p>1 Remote Proceedings</p> <p>2 Monday, July 3, 2023</p> <p>3 10:04 a.m.</p> <p>4</p> <p>5 THE REPORTER: The attorneys participating</p> <p>6 in this deposition acknowledge that I am not</p> <p>7 physically present in the deposition room. They</p> <p>8 further acknowledge that in lieu of an oath</p> <p>9 administered in person, the witness will verbally</p> <p>10 declare his testimony in this matter is under penalty</p> <p>11 of perjury. The parties and their counsel consent to</p> <p>12 this arrangement and waive any objections to this</p> <p>13 manner of reporting. Please indicate your agreement</p> <p>14 by stating your name and your agreement on the record.</p> <p>15 MR. FRISCH: Andrew Frisch for the</p> <p>16 plaintiff, yes.</p> <p>17 MR. CUMMINGS: Michael Cummings for</p> <p>18 Defendant, yes.</p> <p>19 KEITH BROWN,</p> <p>20 Was thereupon called as a witness herein, and after</p> <p>21 having been first duly sworn to testify to the truth,</p> <p>22 the whole truth and nothing but the truth, was</p> <p>23 examined and testified as follows:</p> <p>24 EXAMINATION</p> <p>25 BY MR. CUMMINGS:</p>	<p>Page 4</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p>	<p>1 Q. Good morning, Mr. Brown.</p> <p>2 A. Good morning.</p> <p>3 Q. So you're having your deposition taken today. Have</p> <p>4 you ever had your deposition taken before?</p> <p>5 A. No, sir.</p> <p>6 Q. So I'm going to run through a few details, preliminary</p> <p>7 details. A deposition is testimony for a court case,</p> <p>8 and like as if you were in actual court, you are under</p> <p>9 oath and the court reporter is taking down what you</p> <p>10 say and will produce a transcript, a written record of</p> <p>11 that, and you will be provided a copy. So, first of</p> <p>12 all, I understand that you are -- I'll ask you to</p> <p>13 confirm that you know that you're under oath and</p> <p>14 potentially subject to penalties for perjury if you</p> <p>15 knowingly state anything false.</p> <p>16 A. Yes, I understand.</p> <p>17 Q. I'm going to be asking you a series of questions and</p> <p>18 perhaps -- by the way, can you hear me okay?</p> <p>19 A. Yeah, I can hear you, yes.</p> <p>20 Q. I'll try to speak louder. I'm on a headphone mic.</p> <p>21 Let me see. I'll hold it up a little closer here.</p> <p>22 If at any time you don't hear me or don't</p> <p>23 understand my question either because you can't hear</p> <p>24 the words or it doesn't make sense, I would ask that</p> <p>25 you please let me know. Is that okay?</p>	<p>Page 5</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And, also, I would ask that you -- when you</p> <p>3 give answers, as you just did, say the word yes or no</p> <p>4 rather than nodding your head or saying mm-hum.</p> <p>5 A. Yes.</p> <p>6 Q. And, also, I'd like if I ask you a question and you're</p> <p>7 not sure, I don't -- I would ask you not to guess.</p> <p>8 However, if you have an approximation about when or</p> <p>9 about how long or about what date, that's fine to give</p> <p>10 approximations but not pure guesses. Do you</p> <p>11 understand? Or speculations. Do you understand?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Now, is there anything that might keep you from</p> <p>14 giving me full and complete answers today such as</p> <p>15 typically some people are under medication or some</p> <p>16 kind of drug or other factors that might affect their</p> <p>17 ability to hear and answer questions. Is there</p> <p>18 anything like that going on with you today?</p> <p>19 A. No, sir.</p> <p>20 Q. Okay. Now, your attorney may object to the questions.</p> <p>21 Most of the time that means he's putting something on</p> <p>22 the record. He doesn't like the form or something</p> <p>23 about the question, but normally you would answer</p> <p>24 unless your attorney specifically instructs you not</p> <p>25 to. Do you understand?</p>	<p style="text-align: right;">Page 8</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall the dates that you were employed?</p> <p>4 A. I know I started September of either 2006 or 2007, and</p> <p>5 I was terminated in maybe May or June of 2020.</p> <p>6 Q. Okay. And what was your reason for leaving Absopure?</p> <p>7 A. During the pandemic they -- I had to stay home to</p> <p>8 watch my children, and they were I guess trying to</p> <p>9 force me back to work, and I couldn't work because I</p> <p>10 had kids at home, so they just end up letting me go.</p> <p>11 Q. Okay. Just for -- also for the record, I forgot to</p> <p>12 ask this earlier, could you please state your current</p> <p>13 address?</p> <p>14 A. It's [REDACTED],</p> <p>15 Michigan 48331.</p> <p>16 Q. Is that where you were living during the time you were</p> <p>17 employed by Absopure?</p> <p>18 A. Not -- well, when I got terminated that's where I was</p> <p>19 living, but no. I stayed in one other residence.</p> <p>20 Q. Okay. Do you recall what that address was?</p> <p>21 A. I think it was [REDACTED].</p> <p>22 Q. Okay.</p> <p>23 A. I don't remember the ZIP code at the moment.</p> <p>24 Q. And when you were employed by -- are you currently</p> <p>25 working?</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Yes.</p> <p>2 Q. And may I ask where are you today with this</p> <p>3 deposition?</p> <p>4 A. I am at the law office. It's in one of their rooms</p> <p>5 right now.</p> <p>6 Q. Okay. Is anyone with you in the room?</p> <p>7 A. No.</p> <p>8 Q. Do you have any computing or communications devices</p> <p>9 with you at the moment?</p> <p>10 A. I have a phone, but it's on silent.</p> <p>11 Q. Okay. And there's an agreement in the case that you</p> <p>12 won't be communicating with anyone about this</p> <p>13 deposition while it's going on. Do you understand</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. Now, I expect this deposition to be under two hours,</p> <p>17 and I won't necessarily take a break, but if at any</p> <p>18 time you think you need a break, bathroom break or</p> <p>19 anything else, please let me know.</p> <p>20 A. Okay.</p> <p>21 Q. As long as we're not in the middle of a question and</p> <p>22 answer, we will take the break at that time.</p> <p>23 A. Okay. Got you.</p> <p>24 Q. And you're being deposed here today because you were</p> <p>25 once employed by Absopure Water Company, is that</p>	<p style="text-align: right;">Page 9</p> <p>1 A. No. No, sir.</p> <p>2 Q. What was your position at Absopure when you were there</p> <p>3 or positions if you had multiple ones?</p> <p>4 A. You mean like the whole time there? Basically I just</p> <p>5 was a delivery guy, delivery driver.</p> <p>6 Q. And how did you -- did you have a title for that</p> <p>7 position?</p> <p>8 A. I think it's called like an S3 or something like that.</p> <p>9 Q. S3, like the letter S, as in Sam?</p> <p>10 A. Yes, S, as in Sam, yeah.</p> <p>11 Q. Is that an abbreviation for special?</p> <p>12 A. It's like sales service specialist. I'm pretty sure</p> <p>13 that's what it's called.</p> <p>14 Q. Okay. And what were your job responsibilities as a</p> <p>15 sales service specialist or S3?</p> <p>16 A. Just a deliverer of whatever accounts we have for the</p> <p>17 day. Whatever was on our schedule, just make, you</p> <p>18 know, our stops and deliver water or coffee or</p> <p>19 whatever products we had.</p> <p>20 Q. Okay. And what were the products that you delivered?</p> <p>21 A. Just water, cases of water. We have coolers that we</p> <p>22 have to replace if something's wrong with them or just</p> <p>23 if we have to get any new accounts we had to set them</p> <p>24 up, that type of stuff, the coffee.</p> <p>25 Q. And I'd like to start out and sort of step through the</p>

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<p style="text-align: right;">Page 10</p> <p>1 actions that you took during your day as an employee, 2 and mostly I'm looking for your typical day, but if 3 there's anything -- you can feel free to mention 4 unusual events that happened sometimes. You worked at 5 the -- a facility in Plymouth, is that correct? 6 A. Yes. 7 Q. Did you have a fixed start time for your day? 8 A. No. That job you just kind of come in whenever you 9 come in, but I always came to work about 6:30 to 10 seven, sometimes 7:30 depending if there was traffic 11 or anything, but 6:30, seven was the time I got to 12 work daily. 13 Q. Now, I've been informed that there is sort of a clock 14 or a Kronos time system there. 15 A. Yes. 16 Q. Did you have an employee badge? 17 A. Yes, we had a badge, yes. 18 Q. Okay. And did you use this badge to swipe in or -- 19 A. Yeah. You just tap the thing and it just said that -- 20 you know, just has -- it just beeps, yeah. 21 Q. Okay. And when did you do that when you -- 22 A. I would usually do it when I first got to work. 23 Q. Okay. Were there any times that you didn't do it for 24 some reason? 25 A. Not when I first -- I've always usually punched in</p>	<p style="text-align: right;">Page 12</p> <p>1 Kronos system said that you clocked in in the morning 2 or swiped your badge by the clock, and I'm just -- I'm 3 going to run -- scroll through it. It begins -- we 4 have 2018 dates here. 5 MR. FRISCH: Note our objection. Note 6 plaintiff's objection. There's no foundation here for 7 this exhibit, but subject -- and I'm not going to keep 8 objecting every time you ask a question, but we have a 9 continuing objection to this exhibit. 10 BY MR. CUMMINGS: 11 Q. Okay. And I'd like you to look at the columns one -- 12 it's the fifth column from the left, maybe six, seven 13 columns from the right. It says in on the top. 14 A. Yes. 15 Q. And it has a list of times, and I would ask you to 16 take a look at these times, and to the best of your 17 recollection, do these seem like times that you would 18 have begun work during -- this is January of 2018 -- 19 A. Okay. 20 Q. -- by the way, and I'm wondering if that to best of 21 your recollection reflects times that you began 22 working those days. 23 MR. FRISCH: I'm just going to object to 24 the form, but you can answer the question. 25 THE WITNESS: I mean, yeah, that's</p>
<p style="text-align: right;">Page 11</p> <p>1 every day but sometimes not when I first get in. 2 Sometimes I'll punch in when I pull my truck up or if 3 I forget I may punch in on the way in sometimes when I 4 got back from my route. You just had to punch in 5 once. That was pretty much it. We didn't punch in or 6 out. I mean out. We just punched in. 7 MR. CUMMINGS: Can we take a brief pause? 8 I'm working on sending the documents. I think they're 9 uploaded and ready to go, and I will send these in 10 case I need to bring them up. 11 BY MR. CUMMINGS: 12 Q. Since we're talking about it, I'm going to put up a 13 document on the screen and have you take a look at it. 14 Just give me a minute. I will get it ready here. I'm 15 going to put up a document, and I don't expect that 16 you've ever seen it before, but I will put it in front 17 of you anyway. Can you see a document on your screen 18 at the moment? 19 A. Yes. 20 Q. Okay. I will state for the record that this is a list 21 produced -- made by Absopure for this case and 22 produced. It bears a Bates number -- numbers 23 beginning ABS 001552 and ends in 1586, and this is a 24 list that -- provided to your attorneys that Absopure 25 put writing down your -- that the times that the</p>	<p style="text-align: right;">Page 13</p> <p>1 possible, yeah, but if it's January, I mean, yeah, 2 weather. It's all different times so yeah. 3 BY MR. CUMMINGS: 4 Q. Okay. I just -- I will note for the record that these 5 times are somewhere around seven, most of them, 6 seven -- 7 A. Yeah. 8 Q. -- after seven, some earlier. I'm scrolling through. 9 Now we're down to May of 2018. I won't scroll through 10 the whole document, but do these appear to be typical 11 times that you would have started work while you were 12 with -- 13 A. Yes. That's pretty accurate, yeah. 14 Q. Okay. So after you clocked in in the morning, what 15 were the next things that you did? 16 A. We clock in. I go to my little mailbox, get my 17 paperwork that has my daily like route and all my 18 stops and where I'm going for the day, get that stuff 19 together and then I will grab -- I will get that. 20 Then we go out to where we have the cooler room 21 because a lot of times we always have new coolers that 22 we have to swap out for broken coolers or anything or 23 just new accounts. We had to do that. Then we would 24 go -- after that I would have to go get my truck and 25 make sure my truck is loaded properly, and hopefully</p>

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<p style="text-align: right;">Page 14</p> <p>1 it is. If it's not loaded, I have to go in the 2 warehouse and get any other additional water or 3 products as far as, you know, just cups or anything 4 and make sure, you know, my truck is loaded properly, 5 and after that I have to do a truck inspection, a 6 pre-truck inspection that we have to do on the trucks. 7 Then I have to -- I load everything up in the truck. 8 I drive up to the front, to the front building, and I 9 have to find one of our managers to have us -- to 10 check us out so that's the process. 11 Q. How often did you need to pick up a cooler in the 12 cooler room? 13 A. I mean, mostly it was at least a cooler per day 14 because, I mean, we have -- I have large routes. It's 15 always somebody who has a cooler that needs to get 16 replaced or a new account or anything so it was pretty 17 much daily. 18 Q. Did you sometimes have more than -- take more than one 19 cooler? 20 A. Yes. A lot of days it was more than one, yes. 21 Q. How many would you say would be the maximum number of 22 coolers you might take? 23 A. I mean, it varies. It can be two or three or it can 24 be, you know, seven or eight. If I have a building, 25 one of my plants, you know, that they just going</p>	<p style="text-align: right;">Page 16</p> <p>1 A. That's popping the hood, making sure you have, you 2 know, coolant, oil, checking the hoses, making sure 3 the hoses -- nothing is coming a loose. You have to 4 check the tires, making sure that the tires have the 5 proper tread on them, check the bolts, make sure the 6 bolts is not lose and we have to do like an air brake 7 inspection where you have to pump the air out the 8 brakes, let it build up to make sure it's going to run 9 properly on the road. 10 Q. How long did that inspection typically take you? 11 A. Maybe 15, 20 minutes. 12 Q. And, again, did you do that back -- did you do that 13 inspection back in the lot where the trucks are? 14 A. Yeah. We usually do it in the lot, yeah. 15 Q. And then after you inspected, you say you drove it to 16 front? 17 A. Yeah. Once you do all that and you load the truck 18 with the extra product you need, the coolers, then we 19 drive up to the front office and we find a boss to 20 check us in. We have to wait because it's usually -- 21 it's always other drivers there so it's like a line. 22 You have to wait your turn. We just wait for a 23 manager to check us in. They just check our -- that 24 what we have is correct. 25 Q. By check you mean you're checking the products --</p>
<p style="text-align: right;">Page 15</p> <p>1 through their regular -- just cleaning where they're 2 getting all their coolers replaced, it can be pages of 3 them, so it's not like a number every day that's like 4 an estimate, but, you know, it's -- usually always 5 have some coolers to fix, though. 6 Q. When you went to get your truck, where was the truck? 7 A. The trucks are like in the back area, which is just 8 like a big old lot where they park all the trucks. 9 Q. And when you got your truck, is it correct that you 10 looked at the truck to see what products were on the 11 truck? 12 A. Yes. To make sure it's loaded properly, yes. 13 Q. Okay. And if you -- on a percentage basis or 14 whatever, was it -- is it correct to say that most of 15 the time it was loaded properly? 16 A. Yes, most of the time, yeah. 17 Q. Do you have a sense for how often it was not loaded 18 properly? 19 A. Well, it can be loaded -- not loaded properly or 20 sometimes when the manager's coming in in the morning, 21 they may add a stop here or there so now you have to 22 adjust for the extra stops they added to our route. 23 That's another factor. 24 Q. And you mentioned then doing a truck inspection. What 25 was that inspection?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Yes. 2 Q. -- that are on your truck? 3 A. Yeah. The products that's loaded, make sure we have 4 the right products. 5 Q. Did you have a handheld device -- 6 A. Yes. 7 Q. -- that you used? What was this device? 8 A. I don't know exactly what it's called. It's just a 9 handheld that we put all the product in. 10 Q. By putting the product in, what do you mean by that? 11 A. You would put in -- so, you know, we have two 12 different types of water, distilled and spring. We 13 may have 200 bottles of spring, 100 bottles of 14 distilled so you put that in the handheld so as you go 15 through your stops and make your deliveries, it starts 16 to subtract, so once you get down -- say I sold all my 17 bottles of spring. If I still had spring stops, I 18 wouldn't be able to make any other deliveries because 19 I don't have the product. It will just say zero. You 20 don't have any products. You have to put everything 21 in your handheld properly so that's what -- the 22 managers check to make sure we have everything loaded 23 properly in the handheld. That way we can do our 24 stops. If you put the wrong number in, it won't make 25 any stops or transactions if you don't have that --</p>



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<p style="text-align: right;">Page 18</p> <p>1 you know, if the handheld thinks it's not enough 2 product on the truck. 3 Q. So it's correct to say that when you had your 4 inspection with the manager after driving up, you 5 would have put in your handheld the total number of 6 products that you had on the truck for the day? 7 A. Yes. They just double check it, yes. 8 Q. Okay. And did you deliver coffee products? 9 A. Yes, I did. 10 Q. Okay. Were those loaded onto your truck at the 11 beginning when you picked it up? 12 A. No. Once we get our trucks and drive up to the front, 13 the coffee was actually in the office at the front 14 office where the managers are so I would load up. I 15 would pull my truck up to the front and get a manager, 16 but that was after I get all my coffee and put that on 17 the truck. 18 Q. Okay. Now, I've heard the term checking out with your 19 handheld. 20 A. Yes. 21 Q. Have you heard that? And what does that mean? 22 A. That's what I'm explaining right now. That's us 23 getting checked out. We put the product in first, 24 everything that we have, coffee, coolers, water, and 25 then the -- it has to go through -- we okay it and</p>	<p style="text-align: right;">Page 20</p> <p>1 30, 40 to an hour depending on how many people are 2 there. 3 Q. Is there anything that would make it longer than that 4 typical day, anything that might occur you have to do? 5 A. Only thing that would make it longer, if your truck is 6 loaded completely wrong, you have to go in the 7 warehouse and have the loaders adjust racks and 8 things, take racks of water off and put different 9 water on. That could take time. Like I said, it's 10 always people ahead of you. If it's a line ahead of 11 you, you have to wait for each driver to get their 12 trucks loaded. You can't just -- you don't just pull 13 up and get your stuff and do this. Like everything is 14 assembly line from getting coolers because it's always 15 people there so you have to wait for somebody to help 16 you or, you know, to check your paperwork and all that 17 stuff. Everything is just assembly line basically. 18 It's never just walk in, grab your stuff, walk out. 19 Q. Now, were you -- during the time that you were 20 there -- and I'm going to ask you from about the years 21 late 2017 onward. That's the relevant period behind 22 what we're looking at. Did you drive the same route? 23 A. Yes. 24 Q. And what was that route? 25 A. My route was basically Detroit. I had just like the</p>
<p style="text-align: right;">Page 19</p> <p>1 then it has to go to the manager's page and they put 2 they codes in and then they go through and okay that 3 all the numbers match up right. 4 Q. Is there something you do on the handheld to check 5 out? 6 A. Yeah. I just put the numbers in. We put -- I'm 7 sorry. Like I don't know what you're asking. 8 Q. For example, does the handheld device have a touch 9 screen? 10 A. Yes, touch screen and buttons, yes. 11 Q. And would you either press the button or -- on the 12 handheld or on a spot on the handheld on the screen to 13 say that you were checking -- you checked out for the 14 day? 15 A. Yes. 16 Q. Okay. Do you have a sense of how long it typically 17 took you from the time you walked in, swiped in in the 18 morning to the time you checked out your truck on your 19 typical day? 20 A. It takes about I would say 30 to 40 minutes, if not 21 longer. Depends on how many drivers are there. If 22 I'm the only driver, which that never happens because 23 we have like 60 drivers, if it's just me coming in, it 24 could be about 30 minutes maybe, but it's always guys 25 ahead of you so you have to wait in line. Could be</p>	<p style="text-align: right;">Page 21</p> <p>1 city. I did homes and then I had like the midtown to 2 downtown area where I did a lot of just all office 3 buildings, stadiums, so I had like a large route where 4 I covered like half of Detroit. 5 Q. How many stops were on that route? 6 A. Forty to 50 per day. 7 Q. Did it change from day to day? 8 A. I mean, yeah, it changed from day to day. I averaged 9 about 40 to 50. Some days if I was just doing my home 10 days, which was like I think once or twice a week, it 11 would be around 35 to 40-ish just depending on, you 12 know, just extra people that call in. It varies, but 13 it was 35 to 45 per day for me mostly. 14 Q. And about -- do you recall if you drove a particular 15 truck from late 2017 onward? 16 A. Yes. I don't know the number of the truck, but, yes. 17 I drove a standard ten bay truck. 18 Q. Was it the same truck typically or -- 19 A. For the most part, yeah. Once you had a route, you 20 kind of had your main truck, but if it was to be in 21 the shop, they would adjust, or if somebody else's 22 truck was broke down, they start doing the shift where 23 they say, hey, you take this truck because you need 24 more water, you don't need as much, you take this 25 truck. It's an eight bay truck instead of ten bay</p>

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<p style="text-align: right;">Page 22</p> <p>1 truck, but for the most part we all drive our standard</p> <p>2 trucks when you have a route.</p> <p>3 Q. How long did it typically take for you to complete</p> <p>4 your route per day?</p> <p>5 A. Well, considering I had like office buildings, I</p> <p>6 stopped every day about 4:30 to five because I deal</p> <p>7 with a lot of docks, loading docks and stuff from</p> <p>8 doing hospitals and things so I would stop around</p> <p>9 4:30, five, and that's when I would head back into the</p> <p>10 plant or I may have a house or two to do after I</p> <p>11 finish my buildings so -- but usually 4:30, five is</p> <p>12 when I stopped on the route.</p> <p>13 Q. During your route did you ever take any breaks either</p> <p>14 for lunch or to grab a cup of coffee or anything like</p> <p>15 that?</p> <p>16 A. I would grab food and sit for about a half hour.</p> <p>17 Q. Okay. And where did you typically grab food?</p> <p>18 A. Like I said, I'm out on the road a lot. If I was by a</p> <p>19 McDonald's or something I may grab a McDonald's. If</p> <p>20 I'm in the hospital, it was a Chick-fil-A there,</p> <p>21 Chick-fil-A, Subway, depend which area. I'm in</p> <p>22 different areas certain days, so whatever area I'm in,</p> <p>23 whenever I just see something, I just grab it because</p> <p>24 I'm usually pressed for time.</p> <p>25 Q. And when you were making customer stops, did you</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Once you get back to the plant, you now have to pull</p> <p>2 up to the warehouse so hopefully -- it's usually a</p> <p>3 line of drivers there so you have to wait in line to</p> <p>4 get in there. Once you get inside, they take your</p> <p>5 handheld and do what they call -- they do a checkout</p> <p>6 where they check how much water is left, how many</p> <p>7 empty bottles you have, you know. Whatever is on your</p> <p>8 truck they just put a count in so they have to match</p> <p>9 up with what you went out with.</p> <p>10 Q. By put the count in, do you mean enter those</p> <p>11 numbers --</p> <p>12 A. Enter the numbers in, yes.</p> <p>13 Q. Please just -- I know sometimes the answer to my</p> <p>14 questions are obvious. I would ask you to please wait</p> <p>15 until I finish. It makes it easier for the court</p> <p>16 reporter and also give the attorney an opportunity to</p> <p>17 object if he needs to.</p> <p>18 A. Okay.</p> <p>19 Q. And I heard that -- you mentioned the checkout in the</p> <p>20 morning. I've heard the term check in. Are you</p> <p>21 familiar with that term?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And what is your understanding of the term check in?</p> <p>24 A. Yes. That's what I was referring to. So yes. The</p> <p>25 check in is when we finish with the route. Once we</p>
<p style="text-align: right;">Page 23</p> <p>1 interact with customers?</p> <p>2 A. Yes, when we have to get like receipts and things</p> <p>3 signed. After we make our delivery, we have to give</p> <p>4 them, you know, their receipt. Some customers paid</p> <p>5 cash, some paid, you know, by check and then some just</p> <p>6 automatically had a credit card so they just signed</p> <p>7 for the receipt and we give them their copy and we</p> <p>8 take our copy.</p> <p>9 Q. So it's correct then that some customers gave you cash</p> <p>10 or checks on the route?</p> <p>11 A. Yes.</p> <p>12 Q. Approximately how many would do that?</p> <p>13 A. I mean, it depends. It's not -- I don't have an</p> <p>14 approximate number, but some homes -- a lot of the</p> <p>15 homes in the route, you know, some will pay with a</p> <p>16 check because they have to pay on delivery, cash on</p> <p>17 delivery I guess, but as far as like the hospital,</p> <p>18 those buildings, that stuff was all just -- they were</p> <p>19 a big company so they probably had credit cards. They</p> <p>20 just took receipts. They had people that took care of</p> <p>21 that.</p> <p>22 Q. And what happened when you were done with your route</p> <p>23 for the day?</p> <p>24 A. Then I had to drive back to the plant.</p> <p>25 Q. And what did you do when you got back to the plant?</p>	<p style="text-align: right;">Page 25</p> <p>1 drive back to the plant, we pull up to the warehouse</p> <p>2 and we have a loader. They check in your truck so</p> <p>3 they check in your product. They check everything</p> <p>4 that's on your truck, all the product.</p> <p>5 Q. And after you checked in in the warehouse, what did</p> <p>6 you do after that?</p> <p>7 A. You park your truck and then we have to walk back to</p> <p>8 the office where we have to sit at a table and give a</p> <p>9 person our receipts and any cash that we may have from</p> <p>10 the day.</p> <p>11 Q. Okay. Then did you do anything else?</p> <p>12 A. Yes. Then after that we have to talk to -- we have to</p> <p>13 go to a computer with one of the managers and they go</p> <p>14 through the stops. They go through our day. So they</p> <p>15 go through all the stops that you did, pull up any</p> <p>16 stops that didn't get delivered and we decide whether</p> <p>17 we move those to the next day or we move them to</p> <p>18 another day. Once we finish with that, we get the</p> <p>19 stops for tomorrow and we go through that list and</p> <p>20 check if there's any stops that don't need water or we</p> <p>21 just check and see what we're doing the next day and</p> <p>22 we decide if you're moving any of the older stops to</p> <p>23 that day, and then after that, they'll print out the</p> <p>24 paperwork and we just fill out the paperwork and put</p> <p>25 it in our box for the loaders and that's the end of</p>



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<p style="text-align: right;">Page 26</p> <p>1 the day.</p> <p>2 Q. Did you have a term or phrase you used for the</p> <p>3 paperwork that you filled out for the loaders?</p> <p>4 A. Just like a load sheet. Like a truck -- the truck</p> <p>5 load sheets basically is I guess that's what they</p> <p>6 would call it.</p> <p>7 Q. Did you do anything with your handheld device after</p> <p>8 you checked in with --</p> <p>9 A. Yes. Once the -- once we give them the checks and the</p> <p>10 cash, whatever, receipts for the day, they would --</p> <p>11 they punch in numbers I guess or whatever and then</p> <p>12 they clear out the handheld. We hang it back up on</p> <p>13 the dock.</p> <p>14 Q. Who is the they that you're referring to?</p> <p>15 A. It would be just the people that work in the office,</p> <p>16 somebody that works in the office. That's their job,</p> <p>17 to just check that part of the process in for us</p> <p>18 daily.</p> <p>19 Q. You mentioned that you worked -- you had worked with a</p> <p>20 manager in the morning at around the time of checking</p> <p>21 out and you spoke with a manager in the evening. Was</p> <p>22 that the same person?</p> <p>23 A. Not for me because I got back later so it would be a</p> <p>24 different guy.</p> <p>25 Q. Who was the manager that you dealt with or managers,</p>	<p style="text-align: right;">Page 28</p> <p>1 meeting with the manager, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Did you have any other job duties or activities after</p> <p>4 filling out your load sheet?</p> <p>5 A. No. Once you get the load sheet, that's the end</p> <p>6 thing. You just write the products for the next day.</p> <p>7 You give the manager one, put one in the box, and</p> <p>8 that's it.</p> <p>9 Q. Do you have a recollection of how much time it</p> <p>10 typically took you from the time you did the check in</p> <p>11 with the truck with the warehouse people to the time</p> <p>12 you finished your load sheet every day, that period?</p> <p>13 A. That's about like 40 minutes to an hour depending on</p> <p>14 how many guys are back. Usually I was one of the</p> <p>15 later guys so it was always five, six guys ahead of</p> <p>16 me. I was usually there for at least an hour minimum</p> <p>17 or 45 minutes to an hour for me on a good day I'll</p> <p>18 say.</p> <p>19 Q. Did you ever need to fuel your truck?</p> <p>20 A. If I fueled it, it was in the morning. I was kind of</p> <p>21 locally so I didn't have to fuel during the day. I</p> <p>22 just fueled once a day.</p> <p>23 Q. What kind of fuel did your truck take?</p> <p>24 A. We took diesel fuel.</p> <p>25 Q. Where did you fuel the truck?</p>
<p style="text-align: right;">Page 27</p> <p>1 if it's more than one person, that you dealt with in</p> <p>2 the morning?</p> <p>3 A. You said you want -- you said a name? Is that what</p> <p>4 you're looking for?</p> <p>5 Q. Yeah, the name.</p> <p>6 A. One of them was Alex Mix, Meeks. He was there in the</p> <p>7 morning. Then we had -- it was Alex and it was -- not</p> <p>8 Scott. Scott was there in the afternoon. I can't</p> <p>9 remember. We had a few. We had Michael Roach that</p> <p>10 was there in the mornings for a time. Oh, yeah, Scott</p> <p>11 Snyder. He was there I think in the morning also</p> <p>12 sometimes, but it's usual just -- it's only two guys,</p> <p>13 one per side. We have two different divisions, like a</p> <p>14 north and south division. It was a manager for each</p> <p>15 division.</p> <p>16 Q. Which division were you in?</p> <p>17 A. I was in the south.</p> <p>18 Q. And who was or were the managers that you dealt with</p> <p>19 after checking in?</p> <p>20 A. In the evening?</p> <p>21 Q. Yes.</p> <p>22 A. It was Mike McWhinnie. He was one. Who else was</p> <p>23 there? Yeah. Usually I just worked with Mike</p> <p>24 McWhinnie.</p> <p>25 Q. And you said that you filled out a load sheet after</p>	<p style="text-align: right;">Page 29</p> <p>1 A. We have a fuel tank in the back area where the trucks</p> <p>2 are. Where the trucks sit is a big fuel tanker out</p> <p>3 there that we pull up and fuel up if we need gas.</p> <p>4 Q. Again, when did you typically fill your truck?</p> <p>5 A. It would be in the morning when we first get our</p> <p>6 trucks.</p> <p>7 Q. Did you do that for every time you drove?</p> <p>8 A. No. I would do it every maybe like two to three days</p> <p>9 because, like I said, I was kind of locally and I was</p> <p>10 sitting around at a lot of buildings for my day. I</p> <p>11 wasn't just driving nonstop so I didn't have to fuel</p> <p>12 up every day.</p> <p>13 Q. Okay. How were -- during this time frame, late 2017</p> <p>14 to the time you ended, how were you paid? How was</p> <p>15 your pay calculated by Absopure?</p> <p>16 A. We were commission so it goes off -- it guess it goes</p> <p>17 off how much water we sell throughout the day, how</p> <p>18 much product we sell.</p> <p>19 Q. I'm going to put up another document for you. Just</p> <p>20 give me a minute. Okay. Can you see a document in</p> <p>21 front of you?</p> <p>22 A. Yes.</p> <p>23 Q. Do you -- and I will put for the record, if you give</p> <p>24 me a minute, the document that has been produced in</p> <p>25 this case is -- bears Bates numbers 4401 through 4429,</p>

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<p style="text-align: right;">Page 30</p> <p>1 and, Mr. Brown, do you recognize -- I'm showing you</p> <p>2 just one page now. I can scroll through in a minute.</p> <p>3 Do you recognize the document I'm showing you?</p> <p>4 A. Yes.</p> <p>5 Q. And what is it?</p> <p>6 A. This is what they would give us when we got our checks</p> <p>7 that kind of show like a breakdown of how much water</p> <p>8 we delivered that day and what the -- like I guess</p> <p>9 what the commission we made off the day for deliveries</p> <p>10 was.</p> <p>11 Q. I see. Okay. This just happens to have the week from</p> <p>12 November 11, 2019, through November 15, 2019.</p> <p>13 A. Yes.</p> <p>14 Q. That shows that you worked five days that week. Did</p> <p>15 you typically work five days per week?</p> <p>16 A. Yes.</p> <p>17 Q. Did you ever work more than five days per week?</p> <p>18 A. We would work on a Saturday randomly sometimes, yes.</p> <p>19 Q. Can you say how often you worked on Saturdays?</p> <p>20 A. Any time -- I know for sure when it's a major holiday,</p> <p>21 4th of July, Labor Day, Memorial Day. When we were</p> <p>22 off on a day through the week, we would come in on</p> <p>23 Saturdays to make up for that day, and sometimes</p> <p>24 during the summer, if it was a hot summer, a lot of</p> <p>25 times you sell out of your water because more stops</p>	<p style="text-align: right;">Page 32</p> <p>1 much we should have made because sometimes the checks</p> <p>2 may -- sometimes they would maybe mess up on the</p> <p>3 checks sometimes so we can see how much we supposed to</p> <p>4 have made for a day.</p> <p>5 Q. I see. Were you able to determine on a day-by-day --</p> <p>6 any way for you to find out on a given day after you</p> <p>7 were done with your route, did you have any way to</p> <p>8 find out how much you -- commissions you made for that</p> <p>9 day?</p> <p>10 A. Yes. Once we talked to one of the managers at the</p> <p>11 desk when we were finishing up the route, they can</p> <p>12 tell you how much you made that day.</p> <p>13 Q. Okay. I'm going to go through this particular page in</p> <p>14 front of us, and the third column from the left, it says</p> <p>15 sales eight percent.</p> <p>16 A. Okay.</p> <p>17 Q. What is that?</p> <p>18 A. I have no idea honestly.</p> <p>19 Q. And units eight percent and commission eight percent,</p> <p>20 you don't know what those mean?</p> <p>21 A. I'm going to assume that is -- units is what they</p> <p>22 count as far as like what we sold off the truck so I</p> <p>23 guess it would be like the bottles of water or the</p> <p>24 coffee or whatever, but I'm not sure about the</p> <p>25 percentages and all that. I don't understand the</p>
<p style="text-align: right;">Page 31</p> <p>1 need more water. We would run out of water so that</p> <p>2 means we'll bring stops back, so sometimes they told</p> <p>3 us we have to come in on a Saturday to try to make up</p> <p>4 some stops, you know, make up some deliveries or</p> <p>5 whatever.</p> <p>6 Q. Did you typically do your full route on a Saturday the</p> <p>7 same as you did during the --</p> <p>8 A. Not a full route, no. We usually just dealt with</p> <p>9 homes on the weekends because companies are not open</p> <p>10 during the weekends so it was mostly homes.</p> <p>11 Q. I see. And did you use the same truck that you used</p> <p>12 during the week typically?</p> <p>13 A. Typically, yes.</p> <p>14 Q. I'm going to run through this one page. Let me --</p> <p>15 I'll come back to it. I'm going to scroll through</p> <p>16 the -- they're a little hard to read. Can you</p> <p>17 actually see the numbers on your screen?</p> <p>18 A. Yes, I can see them.</p> <p>19 Q. Very good. And let me get back to that one. We'll go</p> <p>20 through that one day. We can scroll through the rest</p> <p>21 of the document. How often were you given these</p> <p>22 sheets?</p> <p>23 A. We get those when we get our checks I think or the end</p> <p>24 of the week. I forget. I think we got them when we</p> <p>25 got our checks. That way we can pinpoint exactly how</p>	<p style="text-align: right;">Page 33</p> <p>1 breakdown. I never did. I never really like paid</p> <p>2 attention to that stuff. I just -- the only thing I</p> <p>3 did was write down what they told me how much I made</p> <p>4 that day.</p> <p>5 Q. What is your understanding of how you -- you said you</p> <p>6 were paid commission. How that commission was</p> <p>7 calculated, what's your understanding of that?</p> <p>8 A. I know we got a certain percentage of whatever we</p> <p>9 deliver so everybody paid a different amount for the</p> <p>10 water and we got a certain amount of a percentage of</p> <p>11 what we sold, whatever we delivered to that stop. So</p> <p>12 if a stop took eight bottles, we would get -- you</p> <p>13 know, if the total was \$64 for the eight bottles, we</p> <p>14 got a percentage off those 64 bottles I guess.</p> <p>15 Q. The percentage was off the amount of the sale, is that</p> <p>16 correct?</p> <p>17 MR. FRISCH: Objection. He said it was</p> <p>18 based on the amount that he delivered.</p> <p>19 THE WITNESS: Yeah, for delivery. I wasn't</p> <p>20 a salesperson. We just delivered water.</p> <p>21 BY MR. CUMMINGS:</p> <p>22 Q. For the delivery then, that would be the value of the</p> <p>23 products delivered, is that correct?</p> <p>24 A. Yes. I'm saying sales but I'm meaning delivery. We</p> <p>25 just delivered water. We didn't have any like sales.</p>

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<p style="text-align: right;">Page 34</p> <p>1 We didn't go out making sales. We just delivered</p> <p>2 water.</p> <p>3 Q. I see. Now, I see some columns. The first three</p> <p>4 columns talk about sales, units, and commissions with</p> <p>5 a little eight percent in parentheses. To the right</p> <p>6 of that I see columns with sales 16 percent units and</p> <p>7 commission 16 percent. Do you know what that means?</p> <p>8 A. No, I don't understand. As I told you, I really never</p> <p>9 looked at these sheets of papers. The only thing I</p> <p>10 got was the -- I got what they told me I made for that</p> <p>11 day. I never looked at the percentages and all that</p> <p>12 stuff. I was told we made a certain percentage off</p> <p>13 whatever we delivered.</p> <p>14 Q. By that do you mean you just looked at the totals that</p> <p>15 it said that you were owed?</p> <p>16 A. Yes.</p> <p>17 Q. Were you paid a different percentage of commissions on</p> <p>18 different products?</p> <p>19 A. Yeah. Coffee -- I think coffee was worth more than</p> <p>20 water from what I remember, coffee products and like</p> <p>21 cups and things. We got a higher percentage on cups</p> <p>22 that was delivered and coffee.</p> <p>23 Q. So there would be some products that were delivered</p> <p>24 for the -- you would see one percentage based on the</p> <p>25 value of those products and different -- another set</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. -- is that correct?</p> <p>2 MR. CUMMINGS: And I'll note just for the</p> <p>3 record I will put this document in as Exhibit 1. I</p> <p>4 believe, Ms. Benhart, you should have received an</p> <p>5 e-mail with copies of this and you, too, Mr. Frisch,</p> <p>6 and we'll mark this as Exhibit 1 to the deposition.</p> <p>7 REMOTELY INTRODUCED:</p> <p>8 DEPOSITION EXHIBIT 1</p> <p>9 10:48 a.m.</p> <p>10 BY MR. CUMMINGS:</p> <p>11 Q. And I don't -- is there anything more that you want to</p> <p>12 see with this, Mr. Brown, before we go away?</p> <p>13 A. No. I mean, I know what the paperwork is but yeah.</p> <p>14 So it's not a surprise of me seeing this, no.</p> <p>15 Q. It's correct you were provided with sheets either</p> <p>16 weekly or biweekly when you received your pay stub, is</p> <p>17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. How were you paid? Was it by check or direct deposit</p> <p>20 or --</p> <p>21 A. I got checks, but I then I end up getting direct</p> <p>22 deposit toward the end of my tenure I think.</p> <p>23 Q. Okay. We may come back to that in a little bit. Now</p> <p>24 I want to talk to you about -- were you -- did</p> <p>25 Absopure ever communicate to you in any way that --</p>
<p style="text-align: right;">Page 35</p> <p>1 of products you received a higher percentage based on</p> <p>2 the value of the products delivered, is that correct?</p> <p>3 A. Yes. I think so, yes.</p> <p>4 Q. Okay. And so when you received this sheet, this would</p> <p>5 tell you -- where would -- where would you look on</p> <p>6 this sheet to fill out how much you were paid on any</p> <p>7 given day?</p> <p>8 A. I didn't look at this sheet for that. I just got that</p> <p>9 from the managers at the end of the day off the</p> <p>10 computer when they pulled up the paperwork. When they</p> <p>11 pulled up our stops for the day and stuff, it shows</p> <p>12 how much we made that day.</p> <p>13 Q. Okay. And did you ever use this sheet to compare with</p> <p>14 the numbers on your pay stub?</p> <p>15 A. My wife would look over a lot because sometimes they</p> <p>16 would mess up on our checks sometimes so she looked</p> <p>17 over this stuff. She's the numbers person so I just</p> <p>18 started writing down every day whatever they told me</p> <p>19 and then I would just, you know, total it up when I</p> <p>20 got my check.</p> <p>21 Q. Now I'm going to go -- scrolling through the document</p> <p>22 just briefly, and it's just to give you a sense to</p> <p>23 see. Again, these sheets in general look familiar to</p> <p>24 you --</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 37</p> <p>1 about increasing the number of products sold or</p> <p>2 delivered on your routes?</p> <p>3 MR. FRISCH: Objection, vague. You can</p> <p>4 answer.</p> <p>5 THE WITNESS: No, not really. I mean, they</p> <p>6 would say try to -- when you guys are making</p> <p>7 deliveries, can you try to get more sales, but we</p> <p>8 didn't have time to. We were too busy making</p> <p>9 deliveries to the 40, 50 stops we had per day so that</p> <p>10 was not our job.</p> <p>11 BY MR. CUMMINGS:</p> <p>12 Q. Did you ever -- even though it wasn't your job, did it</p> <p>13 ever occur doing your routes that you interacted with</p> <p>14 a customer in some way that they bought more products</p> <p>15 from Absopure?</p> <p>16 A. You said did I do that?</p> <p>17 Q. Yeah, you, yourself.</p> <p>18 A. No, I didn't do that.</p> <p>19 Q. Did any customer ever refer you to other potential</p> <p>20 customers?</p> <p>21 A. People may see the truck driving down the street and</p> <p>22 just ask about water, but no. They always called the</p> <p>23 office for that. We didn't do that. They have a</p> <p>24 sales department there that does all that stuff. They</p> <p>25 just get the sales for us and then we make the</p>

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<p style="text-align: right;">Page 38</p> <p>1 deliveries.</p> <p>2 Q. When you delivered to houses, when you started your</p> <p>3 route for the day, do you know exactly how many</p> <p>4 products you'd be delivering to each house that you</p> <p>5 went to for that day?</p> <p>6 A. Yeah. It has a number. Sometimes it take less,</p> <p>7 sometimes it take more depending on the weather or how</p> <p>8 much they drunk in that time frame from the last</p> <p>9 delivery.</p> <p>10 Q. How would they tell you whether you took less or --</p> <p>11 they would take less or more on that --</p> <p>12 A. Some people just would leave the water outside or once</p> <p>13 we got to the house, they would tell us I only need</p> <p>14 one or two this time. I would grab them two bottles</p> <p>15 and that was it, grab two bottles and print out their</p> <p>16 receipt for them. They would either pay me or they</p> <p>17 was automatically.</p> <p>18 Q. Did customers ever have a practice of just leaving a</p> <p>19 certain number of empty bottles out?</p> <p>20 A. Yes.</p> <p>21 Q. Did that tell you how much new water to give them for</p> <p>22 that day?</p> <p>23 A. It would tell us, yes, or they would leave a note</p> <p>24 saying, hey, I don't need any this month, just take</p> <p>25 the empties or I don't need four, I just need two</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Then I would swap it out like we do with the water</p> <p>2 bottles.</p> <p>3 Q. And you mentioned your load sheet. Is it correct to</p> <p>4 say that the load sheet -- what was the purpose of the</p> <p>5 load sheet?</p> <p>6 A. Well, the load sheet kind of goes off your stops that</p> <p>7 you have for the day. So say I have 25 stops but</p> <p>8 every the stop has a different amount of water. The</p> <p>9 load sheet totals everything up from water to coffee</p> <p>10 and everything so the next morning when we grab our</p> <p>11 truck, they have the truck loaded with the right</p> <p>12 amount of water for deliveries so we don't run out.</p> <p>13 Q. And, again, how did you determine the numbers that you</p> <p>14 put on the load sheet?</p> <p>15 A. Whatever the computer generates.</p> <p>16 Q. What computer is that?</p> <p>17 A. Just the computer that has all the stops. All our</p> <p>18 stops from our route, it just has like, you know, I</p> <p>19 guess maybe it's a sales history type thing where if</p> <p>20 this person usually takes four bottles every delivery,</p> <p>21 they have them in for four. When you have 30, 40</p> <p>22 stops, it just generates all the total water. You</p> <p>23 just put on the load sheet that you need 200 something</p> <p>24 bottles of this, 100 bottles of this and the loaders</p> <p>25 load it up for us so we can deliver it.</p>
<p style="text-align: right;">Page 39</p> <p>1 because I have some left over so it varies.</p> <p>2 Q. I know that for water deliveries customers tell the</p> <p>3 driver how many bottles they want. The driver would</p> <p>4 typically just replace the number of bottles that they</p> <p>5 saw outside. Is that how you typically operated?</p> <p>6 A. For the most part, yes.</p> <p>7 Q. How about determining the number of products to give</p> <p>8 to a business? How did that work every day?</p> <p>9 A. Pretty much the same thing. We just go wherever they</p> <p>10 have their little water area where they have they</p> <p>11 empties. We just replace the empty bottles.</p> <p>12 Q. And how about with coffee products?</p> <p>13 A. Coffee was -- for the most part people would call in</p> <p>14 coffee orders and they just give them -- you know, I</p> <p>15 would see it on my load sheet that I need coffee so I</p> <p>16 would bring it but I don't -- we didn't just bring</p> <p>17 coffee every time like the water bottles. That was a</p> <p>18 different process.</p> <p>19 Q. When you went to businesses, did they ever tell you</p> <p>20 how much coffee they wanted for that particular day?</p> <p>21 A. No. Sometimes we would just go in and check to see if</p> <p>22 they needed any coffee if I had some for them. Like</p> <p>23 if the area was full, I wouldn't leave it. I just</p> <p>24 would keep it and bring it back.</p> <p>25 Q. And if the area was not full, what would you do?</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. On the load sheet, did you ever specify enough -- more</p> <p>2 products than your customers typically took on the</p> <p>3 route?</p> <p>4 A. We always used to have -- I mean, our truck holds so</p> <p>5 many bays of water. It holds I think it was 120 on</p> <p>6 each side, but if you only needed 80, you still put</p> <p>7 the 120 just in case somebody may need extra. They</p> <p>8 would call us a lot saying somebody just called in at</p> <p>9 this stop. If you're in the area, can you hit this</p> <p>10 one, too. So we always kind of had extra in case they</p> <p>11 would call us with more stops to do.</p> <p>12 Q. Was that true for both coffee products and water</p> <p>13 products?</p> <p>14 A. No, not with coffee. We didn't take coffee out every</p> <p>15 day like water. We only took coffee out if we had a</p> <p>16 specific order for a coffee.</p> <p>17 Q. How would you find out about that order?</p> <p>18 A. It will be on the load sheet with, you know, water</p> <p>19 products at night.</p> <p>20 Q. So that would be something you would put on the load</p> <p>21 sheet at the end of the day?</p> <p>22 A. Yes.</p> <p>23 Q. And where did you -- where did you find out that</p> <p>24 number to put on the load sheet?</p> <p>25 A. From the computer. We don't have any like -- we</p>

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<p style="text-align: right;">Page 42</p> <p>1 didn't do any tallying on our own. It was in the</p> <p>2 computer, a sales history maybe. I'm not sure where</p> <p>3 the numbers come from, but it will have a stop and it</p> <p>4 will have all the product they take, whether it's</p> <p>5 water, coffee, cups. It was the same order like every</p> <p>6 week unless they called in and said they needed extra</p> <p>7 or needed more or less.</p> <p>8 Q. What was that computer that you're referring to?</p> <p>9 A. It's just the main computer that we use when we return</p> <p>10 back from work where we're going through our stops for</p> <p>11 the day. It shows all -- every stop that we made. It</p> <p>12 shows if it was done or not, how much water it took.</p> <p>13 It was that computer. So that prints up all the -- it</p> <p>14 shows all the information from the daily route that we</p> <p>15 did.</p> <p>16 Q. Okay. As far as how you were paid, did you ever</p> <p>17 receive -- and we looked at the percentages on the</p> <p>18 commission sheet. Did you ever receive additional pay</p> <p>19 besides percentages on products -- the value of</p> <p>20 products delivered?</p> <p>21 A. No.</p> <p>22 Q. What about bonuses? Was there a bonus program that</p> <p>23 gave you --</p> <p>24 A. We got -- like every -- quarterly we got like a one</p> <p>25 percent just of whatever we delivered. The total</p>	<p style="text-align: right;">Page 44</p> <p>1 new accounts, yes.</p> <p>2 Q. Was that something that you put on the truck at the</p> <p>3 beginning of your route before you started your --</p> <p>4 A. Yeah. If we had any new coffee makers or just coffee</p> <p>5 makers that had to get swapped out, we got those when</p> <p>6 we got our coolers in the morning.</p> <p>7 Q. About how often did that typically occur?</p> <p>8 A. The coffee makers?</p> <p>9 Q. Yes.</p> <p>10 A. Like I said, it just depend on if one clunks out on</p> <p>11 somebody or if we just had -- we had a lot -- any time</p> <p>12 the sales guys -- they would have their little</p> <p>13 blitzes. They would give out a free trial so we would</p> <p>14 have to drop them off for them so we would have a lot</p> <p>15 then, but I didn't have -- the coffee makers, we don't</p> <p>16 swap those out too often unless you have coffee stops.</p> <p>17 I didn't have too many coffee stops on my route.</p> <p>18 Q. Did taking a coffee machine occur less often than</p> <p>19 bringing a cooler?</p> <p>20 A. Oh, yes, yes.</p> <p>21 Q. Were you paid anything extra for swapping out or</p> <p>22 putting in or taking out a coffee machine?</p> <p>23 A. Yes. It was like how the water -- I think like maybe</p> <p>24 \$3 for coffee and seven, eight for a new account I</p> <p>25 think.</p>
<p style="text-align: right;">Page 43</p> <p>1 amount of bottles that we delivered, we got a little</p> <p>2 percentage off of that so we would get like a</p> <p>3 quarterly check.</p> <p>4 Q. Do you recall if you had to do anything to qualify for</p> <p>5 that bonus?</p> <p>6 A. No. They go off of whatever you delivered. If you</p> <p>7 had a busy four months, like in the summertime it was</p> <p>8 more because it's hot so we delivered more water so</p> <p>9 you would get -- the little quarterly check would be a</p> <p>10 little bit more in the summertime than the wintertime</p> <p>11 when you were delivering less bottles.</p> <p>12 Q. Were you paid any amount for, say, delivering a</p> <p>13 certain number of bottles?</p> <p>14 A. Yeah. We got the percentage off each bottle we</p> <p>15 delivered so it wasn't anything like if you delivered</p> <p>16 20 you got like a bonus. It wasn't anything like</p> <p>17 that, no.</p> <p>18 Q. Did you get any extra payment for installing or taking</p> <p>19 out coolers?</p> <p>20 A. Yes. For cooler swaps I think we got like three or</p> <p>21 four bucks for a swap, and if it was like a new setup,</p> <p>22 we would get I think \$7.</p> <p>23 Q. I see. Did you ever put in coffee makers, the coffee</p> <p>24 machines for customers?</p> <p>25 A. Yes. We had to hook up coffee machines if you have</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. Give me a minute.</p> <p>2 MR. FRISCH: We've been going like an hour</p> <p>3 anyway. If you're in a clear place for a break, why</p> <p>4 don't we take a bathroom break for two or three</p> <p>5 minutes.</p> <p>6 MR. CUMMINGS: That's fine. We can go off</p> <p>7 the record.</p> <p>8 (Off the record at 11:00 a.m.)</p> <p>9 (Back on the record at 11:11 a.m.)</p> <p>10 BY MR. CUMMINGS:</p> <p>11 Q. Mr. Brown, do you recall if you were assigned an</p> <p>12 employee number at Absopure? You're on mute.</p> <p>13 A. Can you hear me now?</p> <p>14 Q. Yes, we can hear you. I asked if you recalled whether</p> <p>15 you were assigned an employee number while you were at</p> <p>16 Absopure.</p> <p>17 A. I don't recall. I'm pretty sure we may have had</p> <p>18 something, but I can't think of anything.</p> <p>19 Q. I'm getting some numbers that Absopure gave me. I</p> <p>20 just want to see if you had an independent memory of</p> <p>21 it. I'm going to put some numbers up on the screen</p> <p>22 for you here that Absopure has informed me applied to</p> <p>23 you. I want to see whether or not that refreshes your</p> <p>24 memory or not if these are the correct numbers that</p> <p>25 pertain to you so please give me a minute. The</p>



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<p style="text-align: right;">Page 46</p> <p>1 numbers on the screen, like I said, are just numbers 2 given to us by Absopure and I will say that these are 3 the numbers that were given concerning you, and it 4 lists an employee number, if you can see that on the 5 screen, of E17118. Do you know -- have any 6 recollection of whether or not that was in fact your 7 employee number? 8 A. No, sir. 9 Q. Okay. It also told me -- this is again a period in 10 late 2019. It lists your shipment route, a route 11 number of 11049. Does that refresh your recollection 12 or -- 13 A. Yes. 14 MR. FRISCH: I'm going to object. There's 15 no foundation for that since he said he's never seen 16 this before. 17 BY MR. CUMMINGS: 18 Q. What I was going to ask is was the route number that 19 you drove, that you said you drove most of the time in 20 Detroit, was that route number 11049? 21 A. Yes. 49 was what was on my handle. Yes, that was the 22 route. 23 Q. Were you given just the last two digits, 49? Is that 24 correct? 25 A. Yes, 49.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Pretty sure they may have gave me a handbook when I 2 got the job, but I never -- I don't recall this, no. 3 Q. Okay. 4 A. What was in it, no. 5 Q. You said you may have been given a handbook when you 6 started the job. What do you recall about that? 7 A. Nothing really, just -- I'm pretty sure they gave us a 8 handbook. I know they had passed those out I'm pretty 9 sure so I don't know. 10 Q. Do you recall whether or not they asked you to read 11 the handbook? 12 A. I don't recall that, honestly, no. 13 Q. Do you recall if you actually did read through any or 14 all of the handbook? 15 A. I'm pretty sure I read some of it. I'm not sure if I 16 read the whole thing or not. I don't remember. 17 Q. Okay. 18 A. That's 13 years ago. I don't remember. 19 Q. Understood. 20 MR. CUMMINGS: Okay. Let me double check 21 here. Okay. That's it for the questions that I have. 22 Let me -- I think I'm still sharing the screen. We'll 23 stop that. I'm done with the questions today. I 24 don't know if you have any, Mr. Frisch. 25 MR. FRISCH: I just have a few follow-up</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. And you said you didn't recall the vehicle number at 2 the time. Is it possible that 316 was the vehicle 3 number that you drove? 4 MR. FRISCH: Hold on. That's an improper 5 question. Who knows what's possible? I'm going to 6 object and advise you not to answer. 7 BY MR. CUMMINGS: 8 Q. Do you recall -- does the number showing on the screen 9 refresh your memory at all as to the number of the 10 vehicle that you drove? 11 A. 316 is the truck I've driven before, yes. I'm not 12 sure if that was -- I can't remember what my main 13 truck number was, 310. I mean, I drove all those 14 trucks before, though, yes. 15 Q. That was it. That's all I needed to ask about this. 16 Okay. I'm going to put another document up shortly 17 here. Okay. I'm putting up a document for the record 18 that bears Bates numbers 0177 through 0208. I'm 19 putting up the first page. It says associate 20 handbook. 21 Mr. Brown, I'm going to show you this one 22 page and start scrolling pages and then ask you if you 23 recognize this document at all. You can tell me if 24 you've seen enough or not. Do you recall having seen 25 a document or one like this before?</p>	<p style="text-align: right;">Page 49</p> <p>1 questions. Thanks. 2 EXAMINATION 3 BY MR. FRISCH: 4 Q. Mr. Brown, there was -- opposing counsel asked you 5 questions regarding the vehicles that you drove and 6 you referred to several different trucks. You said 7 you drove most of the vehicles, if not all of them, in 8 the fleet of I guess Absopure. Did some of those 9 vehicles include smaller vehicles like Sprinter vans? 10 A. Yes. 11 Q. So you drove Sprinter vans during the period of time 12 that you were employed by Absopure? 13 A. Yes. Every now and then I would drive a Sprinter van. 14 Q. Then relative to, say, the last three years of 15 employment, so 2017 to 2020 when you last worked for 16 Absopure, did you also drive Sprinter vans on occasion 17 as part of your employment with Absopure? 18 A. Yes, on occasion, not a lot, but, yes, I drove them 19 before a few times, yes. 20 Q. Are you able to estimate, like a give a percentage of 21 the amount of times that you drove a smaller vehicle 22 like a Sprinter van when you were completing your 23 route? 24 A. It would be around like three to five percent. 25 Q. Okay. When you did -- you didn't typically switch</p>



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<p style="text-align: right;">Page 50</p> <p>1 vehicles on a given day, right? So when we're talking</p> <p>2 about driving this three to five percent, would that</p> <p>3 be that you drove the Sprinter van for the entire day?</p> <p>4 A. Yes.</p> <p>5 Q. For one full day or --</p> <p>6 A. Yes. It would be a full day, yes.</p> <p>7 Q. Okay. And you said that was three to five percent of</p> <p>8 the time?</p> <p>9 A. Yes.</p> <p>10 Q. From 2017 to 2020?</p> <p>11 A. Yes. During that time frame, yes.</p> <p>12 Q. I think you testified -- defense counsel asked you or</p> <p>13 you said in your testimony that you typically ended</p> <p>14 your route at about 4:30 or five and you completed</p> <p>15 your last delivery within that time frame</p> <p>16 approximately each day. What did you -- then you</p> <p>17 described actually what you did after that. You said</p> <p>18 you then head back to the Plymouth facility, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Then you returned the truck?</p> <p>21 A. Yes.</p> <p>22 Q. And you completed the load sheet?</p> <p>23 A. Yes.</p> <p>24 Q. And then after you completed the load sheet, that's</p> <p>25 when you were done for the day?</p>	<p style="text-align: right;">Page 52</p> <p>1 JUSTIN GUY, individually and</p> <p>2 on behalf of those similarly</p> <p>3 situated,</p> <p>4 Plaintiff,</p> <p>5 vs. Case No. 20-cv-12734-MAG-EAS</p> <p>6 Hon. Mark A. Goldsmith</p> <p>7 ABSOPURE WATER COMPANY, LLC,</p> <p>8 a domestic limited liability</p> <p>9 company,</p> <p>10 Defendant.</p> <p>11 _____/</p> <p>12 VERIFICATION OF DEPONENT</p> <p>13</p> <p>14 I, having read the foregoing examination</p> <p>15 under oath consisting of my testimony at the</p> <p>16 aforementioned time and place, subject to the changes</p> <p>17 in the attached errata sheet, do hereby attest to the</p> <p>18 correctness and truthfulness of the transcript.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 KEITH BROWN</p> <p>25 Dated: _____</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes. Once we get the load sheet and we fill out the</p> <p>2 paperwork, yes, then we're done.</p> <p>3 Q. If you typically ended your route or got off the road</p> <p>4 about 4:30 or five in the evening, what time would you</p> <p>5 typically hand in your route sheet or your load sheet</p> <p>6 and end a typical workday?</p> <p>7 A. Around after six, around like 6:30, six or 6:30-ish.</p> <p>8 Q. Okay.</p> <p>9 MR. FRISCH: That's all I have, actually.</p> <p>10 MR. CUMMINGS: I have nothing further then.</p> <p>11 MR. FRISCH: Thank you.</p> <p>12 (Deposition concluded at 11:19 a.m.</p> <p>13 Signature of the witness was requested.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 53</p> <p style="text-align: center;">ERRATA SHEET</p> <p>1 PAGE LINE READS PAGE LINE SHOULD READ</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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2 STATE OF MICHIGAN )  
3 ) SS  
4 COUNTY OF WAYNE )  
5  
6 I, HELEN F. BENHART, certify that this  
7 deposition was taken remotely before me on the date  
8 hereinbefore set forth; that the foregoing questions  
9 and answers were recorded by me stenographically and  
10 reduced to computer transcription; that this is a  
11 true, full and correct transcript of my stenographic  
12 notes so taken; and that I am not related to, nor of  
13 counsel to, either party nor interested in the event  
14 of this cause.  
15  
16  
17  
18  
19  
20  
21 *Helen F. Benhart*  
22 HELEN F. BENHART, CSR-2614  
23 Notary Public,  
24 Wayne County, Michigan.  
25 My Commission expires: 7/7/2027